

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WAFIULLAH JAMSHIDY,

Plaintiff,

v.

MORSAL JARNSHIDY ORUZGAMI, et  
al.,

Defendants.

No. 2:25-cv-00273 DJC CKD (PS)

FINDINGS AND RECOMMENDATIONS

Plaintiff initiated this action on January 23, 2025, with a fee-paid complaint arising out of harm allegedly caused by a conspiracy against him. ECF No. 1. Because plaintiff proceeds without counsel, this matter was referred to the undersigned by Local Rule 302(c)(21) pursuant to 28 U.S.C. § 636. On March 24, 2025, the Court directed plaintiff to show cause why this action should not be dismissed for failure to establish federal jurisdiction. (ECF No.17.) On March 28, 2025, plaintiff filed a “Notice of Facts” which the court has considered. (ECF No. 18.) The Court finds that the complaint fails to state a claim and fails to establish federal jurisdiction. The Court further finds that amendment on the facts and legal theories it contains would be futile. The undersigned therefore recommends this action be dismissed without leave to amend.

**I. Allegations**

As set forth in the Order to Show Cause issued on March 24, 2025, plaintiff’s complaint

1 alleges that on November 8, 2023, defendants Mohammad Taib Miskinyar, Hamasa Ourzgani,  
2 Nasratullah Mimskinyar, Sorosh Jamshidy, and Morsal Jamshidy "conspired to falsely accuse me  
3 of criminal behavior, specifically through fabricated claims by Morsal Jamshidy that I grabbed  
4 aggressively her." ECF No. 1 at 7. Plaintiff alleges that this "was part of a broader conspiracy  
5 designed to harm my reputation, livelihood, and safety." *Id.* Plaintiff alleges that the amount in  
6 controversy is \$87,000 based on medical expenses for his mother, lost and stolen property, and  
7 "financial losses." *Id.* at 8. Plaintiff asserts the basis of federal jurisdiction as "Department of  
8 Homeland Security and FBI." *Id.* at 4.

9 In the "Notice of Facts" filed on March 28, 2025, plaintiff seems to assert that Department  
10 of Homeland Security (DHS) failed to "act on credible threats" he apparently reported about  
11 "individuals with direct ties to Iran and terrorist organizations." (ECF No. 18 at 1.) Plaintiff  
12 asserts that after he reported the threats he "became the target of retaliation, including threats  
13 from Iran and Afghanistan, defamation, and legal abuse by [his] wife's family." (*Id.* at 2.)

## 14 II. Legal Standards

15 As plaintiff was already informed, the federal courts are courts of limited jurisdiction, and  
16 a federal court has an independent duty to assess whether federal subject matter jurisdiction  
17 exists, whether or not the parties raise the issue. See United Investors Life Ins. Co. v. Waddell &  
18 Reed Inc., 360 F.3d 960, 967 (9th Cir. 2004). The court must sua sponte dismiss the case if, at  
19 any time, it determines that it lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). A  
20 federal district court generally has original jurisdiction over a civil action when: (1) a federal  
21 question is presented in an action "arising under the Constitution, laws, or treaties of the United  
22 States" or (2) there is complete diversity of citizenship and the amount in controversy exceeds  
23 \$75,000. See 28 U.S.C. §§ 1331, 1332(a).

24 In this case, plaintiff and all defendants appear to be California residents, thus defeating  
25 any possibility of diversity jurisdiction<sup>1</sup>. ECF No. 1 at 2, 3. As to a federal question presented,  
26 plaintiff merely points to two federal agencies: the Department of Homeland Security and the  
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28 <sup>1</sup> Additionally, plaintiff's claimed damages of \$87,000, appear to lack a basis in fact or law.

1 FBI. (ECF No. 1. at 4).

2 The court has federal question jurisdiction over “all civil actions arising under the  
3 Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Determination of federal  
4 question jurisdiction “is governed by the ‘well-pleaded complaint rule,’ which provides that  
5 federal jurisdiction exists only when a federal question is presented on the face of plaintiff’s  
6 properly pleaded complaint.” Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987). Therefore,  
7 plaintiff’s complaint must establish “either that (1) federal law creates the cause of action or that  
8 (2) plaintiff’s right to relief necessarily depends on resolution of a substantial question of federal  
9 law.” Williston Basin Interstate Pipeline Co. v. An Exclusive Gas Storage Leasehold &  
10 Easement, 524 F.3d 1090, 1100 (9th Cir. 2008). See also Barefield v. HSBC Holdings PLC, 2018  
11 WL 3702307, at \*4 (E.D. Cal. 2018).

12 In order to state a cognizable claim under 42 U.S.C. § 1983, a plaintiff must allege a right  
13 secured by the Constitution or laws of the United States was violated by a person acting under the  
14 color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988). Private parties generally do not  
15 act under color of state law. Fonseca v. Kaiser Permanente Med. Cntr. Roseville, 222 F.Supp.3d  
16 850, 861 (E.D. Cal. 2016), citing Price v. Hawaii, 939 F.2d 702, 707-08 (9th Cir. 1991). All of  
17 the defendants named in plaintiff’s complaint appear to be private parties. (ECF No. 1 at 2-3.)

18 In sum, while plaintiff may be dissatisfied with the actions or inactions of DHS, the  
19 gravamen of his complaint is that his family conspired against him and caused financial,  
20 emotional, and physical damage. (ECF No. 1 at 7.) The fact that DHS may have been the  
21 recipient of information that plaintiff believes caused his family to turn against him is wholly  
22 insufficient to establish federal question jurisdiction.

### 23 **III. Leave to Amend**

24 Leave to amend should be “freely given when justice so requires.” Fed. R. Civ. P. 15(a);  
25 see Lucas v. Dep’t of Corrs., 66 F.3d 245, 248 (9th Cir. 1995). The undersigned has carefully  
26 considered whether plaintiff could amend the complaint to state a claim upon which relief can be  
27 granted. “Valid reasons for denying leave to amend include undue delay, bad faith, prejudice, and  
28 futility.” California Architectural Bldg. Prod. v. Franciscan Ceramics, 818 F.2d 1466, 1472 (9th

1 Cir. 1988); see also Klamath-Lake Pharm. Ass'n v. Klamath Med. Serv. Bureau, 701 F.2d 1276,  
2 1293 (9th Cir. 1983) (holding that while leave to amend shall be freely given, the court does not  
3 have to allow futile amendments). Given the defects noted herein, and the fact that the court has  
4 already granted plaintiff an opportunity to establish federal jurisdiction to no avail, granting leave  
5 to amend would be futile in this instance.

6 In addition, IT IS RECOMMENDED:

- 7 1. Plaintiff's complaint (ECF No. 1) be dismissed without leave to amend for failure to  
8 state a claim and failure to establish this court's jurisdiction.  
9 2. The Clerk of Court be directed to close this case.

10 These findings and recommendations are submitted to the United States District Judge  
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
12 after being served with these findings and recommendations, any party may file written  
13 objections with the court and serve a copy on all parties. Such a document should be captioned  
14 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
15 within the specified time may waive the right to appeal the District Court's order. Martinez v.  
16 Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 Dated: April 29, 2025

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19 CAROLYN K. DELANEY  
20 UNITED STATES MAGISTRATE JUDGE  
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